

# Agenda

## Item #4

June 11, 2008



Christopher St. John  
Executive Director

Nicole Witherbee  
Federal Budget Analyst

Kurt Wise  
Fiscal Policy Analyst

Deborah Felder  
Communications

Judyann Ward  
Administrative Assistant

Board of Directors

Keith Bisson

Mary Cathcart

Virginia Dearani

Kate Dempsey

John Hanson

Erik Jorgensen, Secretary

Bennie Lounsbury

Garrett Martin

Juan Perez-Febles

Sarah Shed

Joan Sturimthal, Chairman

Annee Tara

David Vail

Steve Ward

Elizabeth Ward-Saxl,  
Vice-Chair

Lee Webb, Treasurer

Douglas Woodbury

Mr. Jeremy Brown  
PAC, Party, Lobbyist Registrar  
Commission on Governmental Ethics  
And Electoral Practices  
135 State House Station  
Augusta, ME. 04333-0135

Fax to 287-6775  
**RECEIVED**

12 2008

MAINE ETHICS COMMISSION

Dear Mr. Brown,

Thank you for your letter of June 6, 2008 we received today regarding the preliminary penalty of \$1,097.65 for the late filing of our 11-Day Pre-primary report regarding the "people's veto" petitions being circulated regarding taxes on certain beverages.

I am requesting the Commission to review this penalty and make a final determination in the light of our limited experience in filing such reports and the disproportionate nature of the statutory penalty to the harm to the public from the late disclosure.

I am familiar with the Commission's responsibilities in lobbyist registrations as I was registered for the approximately twelve years that I worked as a lobbyist with Pine Tree Legal. I have never been involved in any PAC administration, so am not familiar with PAC reporting requirements and deadlines.

I became aware of the 1056B reporting requirements for non-PAC organizations seeking to influence a ballot question as we were involved in the public education effort to defeat the so-called TABOR initiated bill in 2006. We sought counsel at that time, and did prepare and file timely reports for MECEP's expenditures and revenues in that connection.

I had erroneously held in my mind the reporting date to be in early June, but had not refreshed my memory of the statutory requirement of eleven days prior to the primary. I was informed by a colleague of the filing date I had already missed on Sunday June 1, was in Boston for meetings on Monday June 2, reread the statute and rules late on Tuesday June 3, and got the final figures for our report from our bookkeeper to file on the morning of Wednesday June 4.

I appreciate the public interest in disclosure of such contributions and expenditures and testified before the commission in favor of ways to make the reporting requirement less burdensome and more useful last year. I hope you will agree that my inadvertent missing of the deadline was not too damaging to the public's understanding of the financing of the debate on these issues. I respectfully request a reduction in penalty.

Sincerely,  
Christopher St. John,  
Executive Director



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

June 6, 2008

Mr. Christopher St. John  
Executive Director  
Maine Center for Economic Policy  
P.O. Box 437  
Augusta, ME 04332

Re: Campaign Finance Report Late Filing

Dear Ms. St. John:

Our records show that the 11-Day Pre Primary campaign finance report for the above mentioned Ballot Question Committee was filed on June 4, 2008. This report was due no later than 11:59 P.M. on May 30, 2008. Penalties for late committee reports are based on the amount of financial activity during the filing period, the number of calendar days a report is filed late, and the filer's reporting history (21-A M.R.S.A. § 1062-A). A penalty of no more than \$100 may also be assessed for late reports covering periods in which the committee had no financial activity (21-A M.R.S.A. § 1004-A).

Pursuant to the statutory formula prescribed in 21-A M.R.S.A. § 1062-A, the Commission has assessed a preliminary penalty of \$1,097.65 for the late filing of this report. Please see the enclosed penalty matrix for more information on how this penalty was calculated.

If you believe you have a valid reason for filing late, you may request that the Commission make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receiving this notice, beginning the day you sign for receipt. Upon receipt of your request for a Commission determination, we will schedule you to appear before the Commission at the next regularly scheduled meeting. You may appear before the Commission personally, designate a representative to appear on your behalf, or submit a written statement in which you provide an explanation of the mitigating circumstances you wish the Commission to take into consideration. The Commission will notify you of the disposition of your case shortly after its determination.

Please direct any questions you may have about this matter to me at 287-6221.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy J. Brown".

Jeremy J. Brown  
PAC, Party & Lobbyist Registrar

Enclosure (2)

**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
PENALTY MATRIX FOR LATE BALLOT QUESTION COMMITTEE REPORT FILINGS**

**BASIS FOR PENALTIES  
21-A M.R.S.A. Section 1062-A**

<b>Committee Name:</b>	Maine Center for Economic Policy	<b>Report Title:</b>	11-Day Pre-Primary
		<b>Due Date:</b>	May 30, 2008
<b>Previous Violation(s):</b>	0	<b>Filed Date:</b>	June 4, 2008

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%  
For the second violation, 3%  
For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	\$21,953.00
		x	
		Percent Prescribed:	1%
			\$219.53
X .01	Percent prescribed for first violation		
		x	
\$25.00	One percent of total contributions	Number of days late:	5
X 2	Number of calendar days late	Total penalty accrued:	\$1,097.65
\$50.00	Total Penalty		

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

**MAXIMUM PENALTIES**

21-A M.R.S.A. Section 1062-A(4)

\$10,000 for 11-Day Pre Election reports, 42-Day Post-Election reports, and 24-Hour reports

\$5,000 for Quarterly reports

Revised 5/08

## 21-A §1062-A. Failure to file on time

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## 21-A §1062-A. Failure to file on time

**1. Registration.** A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of \$250.

[ 1995, c. 483, §21 (NEW) .]

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (AMD) .]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD) .]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2007, c. 443, Pt. A, §38 (AMD) .]

[ 2007, c. 443, Pt. A, §38 (AMD) .]

**3. Basis for penalties.** The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (NEW) .]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (NEW) .]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (NEW) .]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each